

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

HYACINTH SIMMS

Debtor,

-----X  
HYACINTH SIMMS,

Plaintiff,

-against-

JP MORGAN CHASE BANK, TOWER GROUP, INC.  
MORANT INSURANCE AGENCY INC., AFFILIATED  
ADJUSTMENT GROUP LTD., ASSURANT PROPERTY  
ADVANTAGE A/K/A ASSURANT SPECIALTY  
PROPERTY'S LENDING, SOLUTIONS GROUP, C.J.  
RUBINO & COMPANY, INC., MSW ADJUSTMENT  
GROUP, INC., DG CUSTOM BUILT HOMES &  
REMODELING,

Defendants.  
-----X

Case No. 23-40070-NHL

Adv. Pro. No. 23-01070-NHL

**NOTICE OF MOTION TO  
DISMISS THE  
COMPLAINT BY  
DEFENDANT CJ RUBINO  
& COMPANY, INC.  
PURSUANT FED. R. CIV.  
P. 12(b)(6) AND FED. R.  
BANKRP. P. 7012**

CHAPTER 13  
HON. NANCY H.  
LORD

TO (Via E-File):  
DAHIYA LAW OFFICES, LLC  
[karam@dahiya.law](mailto:karam@dahiya.law)  
Karamvir Dahiya, Esq.  
75 Maiden Lane, Suite 606  
New York, NY 10038  
Attorneys for Plaintiff  
212-766-8000

**PLEASE TAKE NOTICE** that Defendant CJ RUBINO & COMPANY, INC.

(hereinafter “CJ Rubino”) by and through its attorneys, Tyson & Mendes, LLP, shall move before the Honorable Nancy Hershey Lord, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, at the courthouse thereof, located at 271-C Cadman Plaza East, Suite 1595, Brooklyn, NY 11201-180, on **January 16, 2023 at 2:00 pm**, via Zoom, for an Order:

1. Dismissing the Complaint filed by Plaintiff, Hyacinth Simms (“Plaintiff”), with prejudice, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7012 of the Federal Rules of Bankruptcy Procedure; and

2. Granting CJ Rubino such other and further relief as is just and proper.

**PLEASE TAKE FURTHER NOTICE** that if you wish to appear, you must register your appearance on eCourt appearances located on the Court’s website at <https://ecf.nyeb.uscourts.gov/cgi-bin/nyebAppearances.pl> Appearances must be entered no later than 48 hours before the hearing unless otherwise instructed by chambers.

**NOTE:** Parties who are unable to participate by Zoom may participate by telephone. To participate by telephone, you must contact Chambers at least 24 hours in advance of the hearing and provide the following:

- Name
- Case Number
- Email Address
- Telephone contact number
- Your role in the matter scheduled

Parties that wish listen-only access shall indicate such when registering their appearance through the Electronic Appearance Portal located on the Court’s website.

**PLEASE TAKE FURTHER NOTICE** that in support of this Motion, CJ Rubino will rely upon the accompanying Memorandum of Law, Affirmation of Daniel El Arnaouty, Esq., with exhibits.

**PLEASE TAKE FURTHER NOTICE** that answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: New York, New York  
December 11, 2023

Yours, etc.  
**TYSON & MENDES, LLP**

By: *Daniel El Arnaouty*  
Daniel El Arnaouty, ESQ.  
Attorneys for Defendant  
C.J. RUBINO & COMPANY, INC.  
420 Lexington Ave., Suite 2800  
New York, NY 10017  
929-282-4834

TO (Via E-File):  
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